

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Petition to  
Revoke Probation and Citation  
Against:**

**DETLEF K. EHLING**

**Physician's and Surgeon's  
Certificate No. A66608**

**Respondent**

**Case No. 800-2019-053789  
800-2018-048841**

**OAH No. 2019050482  
2019050512**

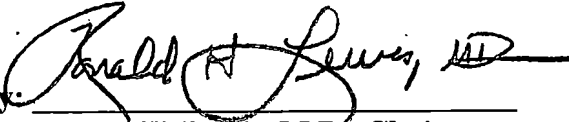
**DECISION**

The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 30, 2019.

IT IS SO ORDERED July 31, 2019.

**MEDICAL BOARD OF CALIFORNIA**

By:   
\_\_\_\_\_  
Ronald H. Lewis, M.D., Chair  
Panel A

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation and Citation Against:

DETLEF K. EHLING, M.D.,

Physician's and Surgeon's Certificate  
No. A 66608

Respondent.

Case Nos. 800-2019-053789  
800-2018-048841

OAH Nos. 2019050482<sup>1</sup>  
2019050512

**PROPOSED DECISION**

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard these matters on June 18, 2019, in Oakland, California.

Deputy Attorney General Joshua Templet represented complainant Kimberly Kirchmeyer, Executive Director, Medical Board of California, Department of Consumer Affairs.

John Fleer, Attorney at Law, represented respondent Detlef K. Ehling, M.D., who was present throughout the administrative hearing.

The record closed and the matter was submitted for decision on June 18, 2019.

**FACTUAL FINDINGS**

*Background*

1. On October 2, 1998, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A 66608 to Detlef K. Ehling, M.D. (respondent). The certificate has been active at all times relevant here. It will expire on August 31, 2020, unless renewed.

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<sup>1</sup> These matters were consolidated for hearing and decision.

2. On July 14, 2016, the Executive Director of the Board issued an accusation against respondent.

3. The factual circumstances underlying the accusation are as follows. On July 15, 2015, while driving near his home, respondent hit a parked car. Respondent reported that he swerved to avoid an oncoming car. He was driving at a speed low enough that the airbags did not deploy. Respondent was transported to the hospital by ambulance. When he arrived at the hospital, his blood alcohol content was measured at 0.17 percent. Respondent had no serious injuries, but remained hospitalized until July 27, 2015, while undergoing medically assisted alcohol withdrawal. Respondent reported to his treating physicians that his drinking had increased in the past year due to various stressors. He stated he had started drinking during the day, including in the morning.

On July 27, 2015, respondent was discharged to another hospital for further management of alcohol withdrawal. His diagnoses on discharge included alcohol withdrawal and alcohol dependency. Respondent was discharged from the second hospital on July 30, 2015. His discharge summary noted that he had been hospitalized for alcohol withdrawal, essential tremors and generalized weakness.

4. On February 24, 2017, respondent signed a Stipulated Settlement, which the Board adopted as its Decision and Order, effective April 27, 2017. The Decision and Order revoked respondent's certificate, stayed the revocation and placed respondent on probation for a period of five years with certain terms and conditions, including that he abstain from the use of alcohol and submit to biological fluid testing. On April 18, 2017, respondent signed an acknowledgement of Decision.

#### *Probation Compliance*

5. The Board assigned Probation Monitor Arlene Caballero to monitor respondent's probation compliance, and Probation Analyst Virginia Gerard to monitor respondent's compliance with the biological fluid testing requirement. Probation Analyst Elena Contreras later replaced Gerard. The Board contracted with FirstLab to oversee the collection and analysis of biological fluid testing.

6. Condition No. 7 of the disciplinary order states:

Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall make daily contact with the Board or its designee to determine whether biological fluid testing is required. Respondent shall be tested on the date of the notification as directed by the Board or its designee. The Board

may order a Respondent to undergo a biological fluid test on any day, at any time, including weekends and holidays. Except when testing on a specific date as ordered by the Board or its designee, the scheduling of biological fluid testing shall be done on a random basis. The cost of biological fluid testing shall be borne by the Respondent.

During the first year of probation, Respondent shall be subject to 52 to 104 random tests. During the second year of probation and for the duration of the probationary term, up to five (5) years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the previous five (5) consecutive years of probation, may testing be reduced to one (1) time per month. Nothing precludes the Board from increasing the number of random tests to the first-year level of frequency for any reason.

Prior to practicing medicine, Respondent shall contract with a laboratory or service, approved in advance by the Board or its designee, that will conduct random, unannounced, observed, biological fluid testing and meets all the following standards:

- (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation.
- (b) Its specimen collectors conform to the current United States Department of Transportation Specimen Collection Guidelines.
- (c) Its testing locations comply with the Urine Specimen Collection Guidelines published by the United States Department of Transportation without regard to the type of test administered.
- (d) Its specimen collectors observe the collection of testing specimens.
- (e) Its laboratories are certified and accredited by the United States Department of Health and Human Services.
- (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day of receipt and all specimens collected shall be handled pursuant to chain of custody

procedures. The laboratory shall process and analyze the specimens and provide legally defensible test results to the Board within seven (7) business days of receipt of the specimen. The Board will be notified of non-negative results within one (1) business day and will be notified of negative test results within seven (7) business days.

- (g) Its testing locations possess all the materials, equipment, and technical expertise necessary in order to test Respondent on any day of the week.
- (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens for the detection of alcohol and illegal and controlled substances.
- (i) It maintains testing sites located throughout California.
- (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line computer database that allows the Respondent to check in daily for testing.
- (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff access to drug test results and compliance reporting information that is available 24 hours a day.
- (l) It employs or contracts with toxicologists that are licensed physicians and have knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate laboratory biological fluid test results, medical histories, and any other information relevant to biomedical information.
- (m) It will not consider a toxicology screen to be negative if a positive result is obtained while practicing, even if the Respondent holds a valid prescription for the substance.

Prior to changing testing locations for any reason, including during vacation or other travel, alternative testing locations must be approved by the Board and meet the requirements above.

The contract shall require that the laboratory directly notify the Board or its designee of non-negative results within one (1) business day and negative test results within seven (7) business days of the results becoming available. Respondent shall

maintain this laboratory or service contract during the period of probation.

A certified copy of any laboratory test result may be received in evidence in any proceedings between the Board and Respondent. If a biological fluid test result indicates Respondent has used, consumed, ingested, or administered to himself or herself a prohibited substance, the Board shall order Respondent to cease practice and instruct Respondent to leave any place of work where Respondent is practicing medicine or providing medical services. The Board shall immediately notify all of Respondent's employers, supervisors and work monitors, if any, that Respondent may not practice medicine or provide medical services while the cease-practice order is in effect.

A biological fluid test will not be considered negative if a positive result is obtained while practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited substance use exists, the Board shall lift the cease-practice order within one (1) business day.

After the issuance of a cease-practice order, the Board shall determine whether the positive biological fluid test is in fact evidence of prohibited substance use by consulting with the specimen collector and the laboratory, communicating with the licensee, his or her treating physician(s), other health care provider, or group facilitator, as applicable.

For purposes of this condition, the terms "biological fluid testing" and "testing" mean the acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

For purposes of this condition, the term "prohibited substance" means an illegal drug, a lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by Respondent and approved by the Board, alcohol, or any other substance the Respondent has been instructed by the Board not to use, consume, ingest, or administer to himself or herself.

If the Board confirms that a positive biological fluid test is evidence of use of a prohibited substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to any other terms or

conditions the Board determines are necessary for public protection or to enhance Respondent's rehabilitation.

7. The requirements that the specimen collectors be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the United States Department of Transportation, that the specimen collectors conform to the United States Department of Transportation Specimen Collection Guidelines, and that the laboratories be certified and accredited by the United States Department of Health and Human Services, are mandates contained in California Code of Regulations, title 16, section 1361.54.

8. On April 24, 2017, Gerard sent a letter to respondent further explaining the terms of his biological fluid testing condition. On page two, in bold, the letter stated:

Should you travel while on probation, you must ensure there are adequate collection site[s] available to test when selected at or near your travel destination. FirstLab can assist you with finding a collection site; however FirstLab requests you provide them with a minimum of two weeks' notice prior to traveling.

The Board does not approve travel nor will the Board excuse you from testing when traveling within the United States or out of the country. Currently, there are no collection sites contracted with FirstLab outside of the United States.

9. Respondent promptly enrolled with FirstLab, began checking in with FirstLab daily and submitted to urine, blood and hair follicle tests as directed.

10. Respondent was born and raised in Germany. On May 1, 2017, respondent wrote to Caballero, informing her that he was planning a trip to visit his mother and friends in Germany from mid-August to mid-September 2017. Respondent asked for the Board's permission to travel. Contreras responded on May 18, 2017, stating that there were no testing locations in Europe and that the Board did not approve travel.

11. On June 26, 2017, respondent's attorney, John Fleer, wrote to Contreras on respondent's behalf. Fleer asserted that the Board could not restrict respondent from traveling, and that whether respondent had consumed alcohol could be verified when he returned. Fleer asked the Board to approve the travel request.

12. On July 27, 2017, respondent sent a letter to Caballero advising her that he had made plans to travel to several European countries from August 18 to September 10, 2017, to see his 92-year-old ailing mother, and to visit family and friends. Respondent noted that he might be required to test during the time he was traveling. He attached a list of labs available in Germany, Austria and Hungary. Respondent stated that he had no intention of consuming alcohol while away and his abstention could be confirmed upon his return through ethyl

glucuronide testing. He noted that all of his testing had been negative for two years, and reported how important it was to visit his elderly mother.

13. On August 10, 2017, Contreras responded to respondent's letter. She requested a copy of his flight itinerary. She reminded respondent that the Board did not approve travel and noted that FirstSource<sup>2</sup> did not have a contract with collection sites outside of the United States. Contreras warned respondent that if he were called to test while out of the country, he could be subject to discipline, but that documentation of his mother's circumstances could be a mitigating factor.

14. Respondent traveled to Europe as planned, returning on September 10, 2017. He checked in with FirstSource each day, but was not called to test while out of the country.

15. On November 7, 2017, respondent submitted to a hair follicle test at the request of FirstSource. Hair follicle tests can reveal the use of alcohol or controlled substances for up to 90 days. The hair follicle test was negative for alcohol and controlled substances.

16. On August 18, 2018, respondent wrote to Contreras advising her that he intended to travel to Germany in September to visit his elderly mother. He reported that his mother's health remained very volatile and had been deteriorating. Respondent planned to visit other friends and family members in other European countries as well. Respondent noted that he had been sober for three years and offered to test when he returned from his trip. Respondent provided his flight itinerary.

17. On August 23, 2018, Contreras responded. She repeated that the Board did not approve travel and that there were no collection sites in Europe that were contracted with FirstSource. She reminded respondent that if he were called to test and failed to do so, he would be subject to discipline. Respondent provided his flight itinerary indicating he would be in Germany from September 4 to September 30, 2018.

18. On September 6, 2018, respondent sent an email message to Contreras from Germany, notifying her that he had been called to test but was unable to test with FirstSource because he was out of the country. Respondent was called to test again on September 11 and September 21, 2018, while he remained in Europe. Respondent did not submit to testing on September 6, 11 or 21, 2018. Respondent returned on September 30, 2018.

19. On October 12, 2018, the Board issued a Citation Order to respondent. The citation was issued due to respondent's failure to comply with Condition No. 7, in that he had failed to provide a biological fluid sample as directed on September 6, 11 and 21, 2018. The citation imposed an administrative fine in the amount of \$500, and ordered him to comply with his probation conditions.

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<sup>2</sup> FirstLab changed its name to FirstSource.



20. Respondent appealed the citation on October 26, 2018. An informal conference was held by Marco Armas, of the Board's Citation and Fine Program, on November 26, 2018. Following the conference, Armas denied the appeal. Respondent requested a hearing on the citation and this proceeding was scheduled.

21. On November 6, 2018, respondent submitted to a hair follicle test at the request of FirstSource; it was negative for alcohol and controlled substances.

22. On January 29, 2019, respondent sent an email message to Contreras, notifying her that he planned to travel to Mexico from February 15 to 24, 2019. He offered to supply her with potential collection sites in Mexico, and his flight schedule.

23. Contreras responded later that morning advising respondent that, as he was aware, the Board did not approve travel plans. She reminded him that if he were called to test during his vacation, the Board could take disciplinary action.

24. On February 12, 2019, respondent advised Caballero that after consulting with his attorney, he was proceeding with his travel plans.

25. On February 18, 2019, while respondent was in Mexico, he was directed to submit to biological fluid testing. Respondent did not submit to testing. On February 27, 2019, Contreras wrote to respondent asking for a written statement explaining why he did not submit to testing. On February 28, 2019, respondent wrote to Contreras, stating that he was unable to submit to testing because he was out of the country.

26. On March 13, 2019, complainant Kimberly Kirchmeyer, Executive Director of the Board, issued a Cease Practice Order for violating Probation Condition No. 7, requiring him to submit to biological fluid testing. Pursuant to the order, respondent was prohibited from practicing until a clinical diagnostic evaluation was completed and 30 days of negative biological fluid testing was completed. Respondent submitted to the evaluation and to biological fluid testing as required. Respondent also filed an application for a stay of the Cease Practice Order in superior court.

27. On April 12, 2019, complainant, acting in her official capacity issued a petition to revoke probation against respondent.

28. On April 19, 2019, complainant terminated the Cease Practice Order.

29. On April 30, 2019, respondent submitted to a hair follicle test at the request of FirstSource; it was negative for alcohol and controlled substances.

30. On May 7, 2019, respondent wrote to Contreras advising her that he would be traveling to Germany to see his mother from May 22 to June 12, 2019. He reported that his mother's health had been deteriorating and that due to her loss of hearing he was unable to communicate with her over the telephone. Respondent also advised that he planned to spend

short periods of time in Denmark, the Netherlands, Georgia and Azerbaijan to visit friends and family. He enclosed possible testing sites in Germany and in the other countries he planned to visit. Respondent reported that he did not intend to consume alcohol during his travel, and noted that he had remained sober throughout his probationary period. Respondent reported that he was willing to test upon his return on abroad.

31. On May 31, 2019, respondent sent an email message to Contreras, reporting that he was in Germany visiting his ailing mother; that he was directed to test that day, but that he had not because the Board had not approved a local testing site.

32. Between May 15, 2017 and May 9, 2019, respondent submitted to 90 urine tests, four hair follicle tests and eight blood tests; all have been negative for alcohol and controlled substances.

#### *Respondent's Evidence*

33. Respondent is 64 years old. He was born in Berlin and attended medical school there. He moved to the United States in 1988 to attend a residency in New York. He returned to Germany after completing the residency. In 1996, he returned to this country to attend a family medicine residency and has resided here since then. Respondent is board certified in family medicine and has staff privileges at John Muir Medical Center in Walnut Creek and at John Muir's Concord campus. Respondent has had a solo family medicine practice, first in Martinez, then in Concord, California, since 2002.

34. Respondent's father became very ill in 2014, prompting respondent to return to Germany to practice for a period of time. In 2015, he was facing various stressors, including staffing issues at his practice, financial issues and problems in his relationship. In April 2015, he began to consume more alcohol as his stress level increased. He started seeing a psychologist because he recognized he was drinking too much, especially on weekends. Respondent denies ever drinking while working or before going to work.

35. Following his accident on July 18, 2015, respondent agreed to remain in the hospital for detoxification, and to seek treatment for his alcohol issues. After being discharged, and while awaiting entry into a treatment facility, his health deteriorated, and he was hospitalized with sepsis due to an infection that occurred during the treatment following his accident. After a stay in the intensive care unit, he was transferred to a nursing/rehabilitation facility to recover.

36. Respondent reports that following his discharge from the rehabilitation facility he contacted residential substance abuse treatment facilities, but because he had been sober for more than one month by then, he was referred to outpatient treatment. Respondent reports having met with an alcohol counselor twice per week initially through Weyland Consultation Services, and participating in urine testing. All urine screens were negative.

37. Respondent's brother, Jurgen Ehling, wrote a letter for the Board's consideration dated May 10, 2019. He is a retired cardiologist residing in Germany. Ehling confirms that respondent's mother is 94 years old, resides in an assisted living facility, and suffers from severe congestive heart failure, severe hearing loss and early dementia. Ehling reports further that seeing her two sons is important to her.

38. Respondent testified credibly that he has not consumed alcohol since July 18, 2015, the date of his accident. Respondent submitted to hair follicle tests within two months of his travel to Europe in 2017, within 40 days of traveling to Europe in 2018, and within 65 days of traveling to Mexico in 2019, substantiating his claim that he has remained sober during his travel.

39. Respondent has submitted to biological testing more than 100 times and has never had a positive screen. Respondent has complied with all probation conditions, except for having missed tests while traveling.

#### LEGAL CONCLUSIONS

1. The burden of proof in this matter is on the Board and the standard of proof is a preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1441; *Owen v. Sands* (2009) 176 Cal.App.4th 985.)

2. The purpose of the Medical Practice Act<sup>3</sup> is to assure the high quality of medical practice; in other words to keep unqualified persons and those guilty of unprofessional conduct out of the medical profession. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 574.) The purpose of physician discipline is to protect the public and to aid in the rehabilitation of licensees. (Bus. & Prof. Code, § 2229.)

3. Complainant seeks to impose discipline on respondent's California certificate based on his failure to submit to biological fluid testing while traveling abroad. The Stipulation and Order clearly requires respondent to submit to biological fluid testing upon demand; and to submit samples at facilities described in California Code of Regulations, title 16, section 1361.54. The Board contracts with FirstSource to collect samples from authorized sites and to analyze samples and report the results to the Board. FirstSource has no contracts with collection sites outside of the United States. Respondent offered to submit to testing at collection sites in Europe, but did not establish that those sites meet the guidelines set forth in section 1361.54.

4. Respondent argues that Condition No. 7 violates his constitutional rights as follows: 1) the Board is restricting respondent's freedom to travel, which is a basic human right; 2) broad travel restrictions are unconstitutional; 3) travel is not an offense; and 4) the Board's

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<sup>3</sup> Business and Professions Code sections 2000 through 2521.

travel limitation is not tailored to the benefit of respondent, citing *People v. Bauer* (1989) 211 Cal.App.3d 937.

Because the content of Condition No. 7 is contained in California Code of Regulations, title 16, section 1361.54, respondent is essentially requesting the Board to declare its own regulation unconstitutional. The *Bauer* court held that imposing a probation condition that restricted the defendant's residence to a location approved by his probation officer affected the defendant's constitutional rights to travel and his freedom of association. However, as noted in *People v. Arevalo* (2018) 19 Cal.App.5th 652, courts have authority to restrict these rights if the restriction is reasonably necessary to meet the twin goals of rehabilitation and protection of the public. The *Arevalo* court was also mindful that probation was a privilege and not a right; the defendant could choose serving time in custody as opposed to accepting probation, just as respondent could have surrendered his license in lieu of accepting probation. Respondent voluntarily signed the Stipulated Settlement that became the Disciplinary Order. The biological fluid testing requirements were spelled out in the document that respondent stipulated to and signed.

It is noted at the outset that the Board has not restricted respondent's ability to travel. The Board does not approve or disapprove travel by probationers. Indeed, in 2017, respondent traveled to Europe after notifying the Board and the Board took no action. The Board only took action thereafter because respondent failed to submit to biological fluid testing when directed.

Even if the requirement that he submit to testing were considered to be a restriction on travel because no collection sites have been identified outside of the country that meet the requirements of section 1361.54, the restriction is reasonably necessary to meet the goals of respondent's rehabilitation and the protection of the public. Respondent is on probation to the Board because he abused alcohol. The Board has reasonably required respondent to submit to biological fluid testing to protect the public. The requirements contained in section 1361.54 require that the testing comply with standards to ensure its reliability. The Board has a significant interest in assuring that substance abusing licensees are tested under the guidelines set forth in section 1361.54 in order to enforce its primary responsibility: ensuring public protection. Respondent's constitutional challenge to section 1361.54 is rejected.

Respondent was required to test on September 6, September 11 and September 21, 2018, and February 18, 2019. The evidence established that he did not test on those dates as required. Respondent is therefore in violation of his probation terms; cause for issuance of the citation and to revoke probation has been established.

The question remains whether respondent's probation should be revoked or extended, whether no discipline is warranted, or whether a public reprimand should issue pursuant to Business and Professions Code section 2227, subdivision (a)(4). The Board's concern is whether respondent poses a threat to the public. The evidence did not establish that respondent has failed to abstain from alcohol consumption; to the contrary, he testified credibly that he has not consumed alcohol since his traffic accident on July 18, 2015, and all

screens, over 100 since 2017, have been negative. Respondent submitted to hair follicle testing as requested within 90 days of his 2017 and 2018 trips to Europe and his 2019 trip to Mexico; those tests revealed no evidence of alcohol use during those travel periods. Respondent has complied with all other probation requirements.

Revocation is not warranted under these circumstances. However, the citation will be sustained, and a public reprimand issued in response to the petition to revoke probation. This will serve to remind respondent that he is required to comply with his probation conditions and that his future failure to do so will again expose him to disciplinary action in the absence of compelling evidence in mitigation. The appropriate avenue for respondent to seek Board approval for biological fluid testing abroad is to file a petition to modify his probation terms.

#### ORDER

1. Citation Order No. 800-2018-048841, issued to Detlef K. Ehling, M.D., holder of Physician's and Surgeon's Certificate No. A 66608, is sustained. Respondent is ordered to maintain compliance with all terms and conditions of the Decision and Order, issued by the Board effective April 27, 2017.

2. Respondent Detlef K. Ehling, M.D., is hereby publicly reprimanded pursuant to Business and Professions Code section 2227, subdivision (a)(4).

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DATED: June 27, 2019

DocuSigned by:  
*Jill Schlichtmann*  
000970940848409  
\_\_\_\_\_  
JILL SCHLICHTMANN  
Administrative Law Judge  
Office of Administrative Hearings

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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO April 12 20 19  
BY                      ANALYST

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 In the Matter of the Petition to Revoke  
14 Probation Against:

Case No. 800-2019-053789

15 **DETLEF K. EHLING, M.D.**

PETITION TO REVOKE PROBATION

16 **2299 Bacon Street, Suite T**  
**Concord, CA 94520**  
17 **Physician's and Surgeon's Certificate**  
**No. A 66608**

18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely  
23 in her official capacity as the Executive Director of the Medical Board of California, Department  
24 of Consumer Affairs.

25 2. On or about October 2, 1998, the Board issued Physician's and Surgeon's Certificate  
26 Number A 66608 to Detlef K. Ehling, M.D. (Respondent). The certificate was in full force and  
27 effect at all times relevant to the charges brought herein and will expire on August 31, 2020,  
28 unless renewed.

## JURISDICTION

3. This Petition to Revoke Probation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. Section 2227 provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2228 states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

7. Code of Regulations, title 16, section 1361.52, states:

(a) A licensee who does any of the following shall be deemed to have committed a major violation of his or her probation:

...

(5) Fails to undergo biological fluid testing when ordered;

...

(b) If a licensee commits a major violation, the Board will take one or more of the following actions:

1 (1) Issue an immediate cease-practice order and order the licensee to undergo a  
2 clinical diagnostic evaluation at the expense of the licensee. Any order issued by the  
3 Board pursuant to this subsection shall state that the licensee must test negative for  
4 at least a month of continuous biological fluid testing before being allowed to  
5 resume practice.

6 (2) Increase the frequency of biological fluid testing.

7 (3) Refer the licensee for further disciplinary action, such as suspension, revocation,  
8 or other action as determined by the Board.

9 . . .

10 (e) Nothing in this section shall be considered a limitation on the Board's authority to  
11 revoke the probation of a licensee who has violated a term or condition of that  
12 probation.

### 13 APRIL 27, 2017 DISCIPLINARY DECISION

14 8. In a disciplinary action entitled "In the Matter of Accusation Against Detlef K.  
15 Ehling, M.D.," Case No. 800-2015-016011, the Board issued a decision, effective April 27, 2017,  
16 in which Respondent's Physician's and Surgeon's Certificate was revoked, based on his excessive  
17 use of alcohol and his impairment due to alcohol dependency. However, the revocation was  
18 stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a  
19 period of five years with certain terms and conditions, including conditions requiring him to  
20 abstain from the use of alcohol and to submit to biological fluid testing. A copy of the decision is  
21 attached as **Exhibit A** and is incorporated by reference.

### 22 FACTS

23 9. On April 24, 2017, the Board analyst assigned to monitor Respondent's compliance  
24 with the biological fluid testing required as a condition of his probation sent Respondent a letter  
25 introducing herself and reviewing the testing procedures. The letter stated that no biological fluid  
26 collection sites were available outside of the United States and that the Board would not excuse  
27 Respondent from testing while traveling, whether within the United States or abroad.

28 10. On January 29, 2019, Respondent sent an e-mail to the Board analyst assigned to  
monitor his biological fluid testing. Respondent stated that would be travelling to Mexico from  
February 15, 2019 until February 24, 2019. The Board analyst sent a response to Respondent,  
reminding him that, as a condition of probation, he was required to submit a biological fluid  
sample when selected for testing. The analyst further reminded Respondent that there were no



1 testing locations outside of the United States. The analyst warned Respondent that if he were  
2 selected to test while abroad, he could violate his conditions of probation and subject himself to  
3 disciplinary action.

4 11. Respondent vacationed in Mexico from February 15, 2019 until February 24, 2019.  
5 On February 18, 2019, Respondent was randomly selected to provide a biological fluid sample  
6 and failed to provide a sample.

7 12. On March 13, 2019, the Board issued a Cease Practice Order against Respondent for  
8 his failure to provide a biological fluid sample on February 18, 2019, in violation of his probation.  
9 The order prohibits Respondent from practicing medicine and provides that Respondent "shall not  
10 resume the practice of medicine until completion of a clinical diagnostic evaluation, at his own  
11 expense, and thirty (30) days of negative biological fluid tests, indicating he has not used,  
12 consumed, ingested, or administered to himself a prohibited substance, or until a final decision  
13 has been issued on an accusation and/or petition to revoke probation filed pursuant to this  
14 matter."

### 15 **CAUSE TO REVOKE PROBATION**

#### 16 **(Biological Fluid Testing)**

17 13. At all times after the effective date of Respondent's probation, Condition 7  
18 (Biological Fluid Testing) requires Respondent to submit biological fluid samples for testing  
19 upon request by the designated testing laboratory. Condition 7 states, in part, as follows:

20 Respondent shall make daily contact with the Board or its designee to determine  
21 whether biological fluid testing is required. Respondent shall be tested on the date of  
22 the notification as directed by the Board or its designee. The Board may order  
23 Respondent to undergo a biological fluid test on any day, at any time, including  
weekends and holidays. Except when testing on a specific date as ordered by the  
Board or its designee, the scheduling of biological fluid testing shall be done on a  
random basis.

24 14. At all times after the effective date of Respondent's probation, Condition 10  
25 (Violation of Probation Condition for Substance Abusing Licensees) provides that failure to fully  
26 comply with any term or condition of probation is a violation of probation. Condition 10 further  
27 states as follows:  
28

1 A. If Respondent commits a major violation of probation as defined by section  
2 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board  
3 shall take one or more of the following actions:

4 (1) Issue an immediate cease-practice order and order Respondent to undergo a  
5 clinical diagnostic evaluation to be conducted in accordance with section 1361.5,  
6 subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's  
7 expense. The cease-practice order issued by the Board or its designee shall state that  
8 Respondent must test negative for at least a month of continuous biological fluid  
9 testing before being allowed to resume practice. For purposes of the [sic]  
10 determining the length of time a Respondent must test negative while undergoing  
11 continuous biological fluid testing following issuance of a cease-practice order, a  
12 month is defined as thirty calendar (30) days. Respondent may not resume the  
13 practice of medicine until notified in writing by the Board or its designee that he or  
14 she may do so.

15 (2) Increase the frequency of biological fluid testing.

16 (3) Refer Respondent for further disciplinary action, such as suspension, revocation,  
17 or other action as determined by the Board or its designee.

18 15. Respondent's probation is subject to revocation because he failed to provide a  
19 biological fluid sample when selected to do so on February 18, 2019, thereby violating  
20 Conditions 7 and 10 of his probation and Code of Regulations, title 16, section 1361.52,  
21 subsection (a)(5) (failure to undergo biological fluid testing when ordered). Respondent's conduct  
22 constitutes a major violation of his probation within the meaning of Condition 10 of his probation  
23 and Code of Regulations, title 16, section 1361.52, and his probation is therefore subject to  
24 revocation.

### 25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board issue a decision:

28 1. Revoking the probation that was granted by the Board in Case No. 800-2015-016011  
and imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's  
Certificate No. A 66608 issued to Respondent;

2. Revoking, suspending, or denying approval of Respondent's authority to supervise  
physician assistants and advanced practice nurses;

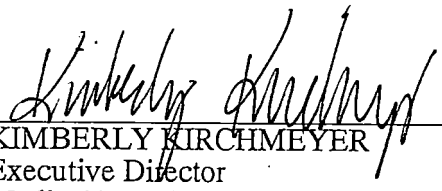
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1           3.     Ordering Respondent, if placed on further probation, to pay the Board the costs of  
2 probation monitoring;

3           4.     Taking such other and further action as deemed necessary and proper.  
4

5  
6     DATED:   April 12, 2019  
7 \_\_\_\_\_

  
8 KIMBERLY KIRCHMEYER  
9 Executive Director  
10 Medical Board of California  
11 Department of Consumer Affairs  
12 State of California  
13 *Complainant*

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## **Exhibit A**

### **Decision and Order**

**Medical Board of California Case No. 800-2015-016011**

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

DETLEF K. EHLING, M.D.

Physician's and Surgeon's  
Certificate No. A66608

Respondent

Case No. 8002015016011

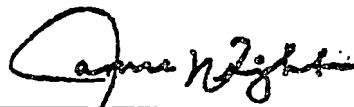
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 27, 2017.

IT IS SO ORDERED: March 28, 2017.

MEDICAL BOARD OF CALIFORNIA



\_\_\_\_\_  
Jamie Wright, J.D., Chair  
Panel A

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 KEITH C. SHAW  
Deputy Attorney General  
4 State Bar No. 227029  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5385  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 800-2015-016011

11  
12 **DETLEF K. EHLING, M.D.**  
2299 Bacon Street #1  
13 Concord, CA 94520

OAH No. 2016090704

14 Physician's and Surgeon's Certificate No.  
A66608

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15  
16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw,  
24 Deputy Attorney General.

25 2. Respondent Detlef K. Ehling, M.D. is represented in this proceeding by attorney John  
26 Flee, Esq., whose address is: Law Offices of John L. Flee, 1850 Mt. Diablo Blvd., Suite 120,  
27 Walnut Creek, CA 94596  
28

1           3.     On or about October 2, 1998, the Board issued Physician's and Surgeon's Certificate  
2     No. A66608 to Detlef K. Ehling, M.D. (Respondent). The Physician's and Surgeon's Certificate  
3     was in full force and effect at all times relevant to the charges brought in Accusation No. 800-  
4     2015-016011, and will expire on August 31, 2016, unless renewed.

5                                   JURISDICTION

6           4.     Accusation No. 800-2015-016011 was filed before the Medical Board of California,  
7     Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
8     and all other statutorily required documents were properly served on Respondent on July 14,  
9     2016. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of  
10    Accusation No. 800-2015-016011 is attached as exhibit A and incorporated herein by reference.

11                               ADVISEMENT AND WAIVERS

12          5.     Respondent has carefully read, fully discussed with counsel, and understands the  
13    charges and allegations in Accusation No. 800-2015-016011. Respondent has also carefully read,  
14    fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
15    Disciplinary Order.

16          6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
17    hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
18    the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
19    to the issuance of subpoenas to compel the attendance of witnesses and the production of  
20    documents; the right to reconsideration and court review of an adverse decision; and all other  
21    rights accorded by the California Administrative Procedure Act and other applicable laws.

22          7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23    every right set forth above.

24                               CULPABILITY

25          8.     Respondent understands and agrees that the charges and allegations in Accusation  
26    No. 800-2015-016011, if proven at a hearing, constitute cause for imposing discipline upon his  
27    Physician's and Surgeon's Certificate.  
28

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if the Board ever petitions for revocation of probation, all of the charges and allegations contained in Accusation No. 800-2015-016011 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:



**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A66608 issued to Respondent Detlef K. Ehling, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawfully prescribed medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name, strength, and quantity; and issuing pharmacy name, address, and telephone number.

If Respondent has a confirmed positive biological fluid test for any substance (whether or not legally prescribed) and has not reported the use to the Board or its designee, Respondent shall receive a notification from the Board or its designee to immediately cease the practice of medicine. The Respondent shall not resume the practice of medicine until the final decision on an accusation and/or a petition to revoke probation. An accusation and/or petition to revoke probation shall be filed by the Board within 30 days of the notification to cease practice. If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of the matter.

Within 15 days of receipt by the Board of the Administrative Law Judge's Proposed Decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its Decision within 15 days of submission of the case, unless good cause can be shown for the delay. Good cause includes, but is not limited to, non-adoption

1 of the Proposed Decision, request for reconsideration, remands and other interlocutory orders  
2 issued by the Board. The cessation of practice shall not apply to the reduction of the probationary  
3 time period.

4 If the Board does not file an accusation or petition to revoke probation within 30 days of the  
5 issuance of the notification to cease practice or does not provide Respondent with a hearing  
6 within 30 days of a such a request, the notification of cease practice shall be dissolved.

7 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the  
8 use of products or beverages containing alcohol.

9 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall  
10 receive a notification from the Board or its designee to immediately cease the practice of  
11 medicine. The Respondent shall not resume the practice of medicine until the final decision on an  
12 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to  
13 revoke probation shall be filed by the Board within 30 days of the notification to cease practice.  
14 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the  
15 Board shall provide the Respondent with a hearing within 30 days of the request, unless the  
16 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge  
17 alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of  
18 the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's Proposed  
19 Decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the  
20 case is heard by the Board, the Board shall issue its Decision within 15 days of submission of the  
21 case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,  
22 non-adoption of the Proposed Decision, request for reconsideration, remands and other  
23 interlocutory orders issued by the Board. The cessation of practice shall not apply to the  
24 reduction of the probationary time period.

25 If the Board does not file an accusation or petition to revoke probation within 30 days of the  
26 issuance of the notification to cease practice or does not provide Respondent with a hearing  
27 within 30 days of a such a request, the notification of cease practice shall be dissolved.

28 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of

1 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
2 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.  
3 Respondent shall participate in and successfully complete that program. Respondent shall  
4 provide any information and documents that the program may deem pertinent. Respondent shall  
5 successfully complete the classroom component of the program not later than six (6) months after  
6 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
7 time specified by the program, but no later than one (1) year after attending the classroom  
8 component. The professionalism program shall be at Respondent's expense and shall be in  
9 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

10 A professionalism program taken after the acts that gave rise to the charges in the  
11 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
12 or its designee, be accepted towards the fulfillment of this condition if the program would have  
13 been approved by the Board or its designee had the program been taken after the effective date of  
14 this Decision.

15 Respondent shall submit a certification of successful completion to the Board or its  
16 designee not later than 15 calendar days after successfully completing the program or not later  
17 than 15 calendar days after the effective date of the Decision, whichever is later.

18 4. PSYCHIATRIC EVALUATION. At the Board's discretion, and on whatever  
19 periodic basis that may be required by the Board or its designee, Respondent shall undergo and  
20 complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a Board-  
21 appointed board certified psychiatrist, who shall consider any information provided by the Board  
22 or its designee and any other information the psychiatrist deems relevant, and shall furnish a  
23 written evaluation report to the Board or its designee. Psychiatric evaluations conducted prior to  
24 the effective date of the Decision shall not be accepted towards the fulfillment of this  
25 requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological  
26 testing.

27 Respondent shall comply with all restrictions or conditions recommended by the  
28 evaluating psychiatrist within 15 calendar days after being notified by the Board or its designee.

1           5.    PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,  
2   Respondent shall submit to the Board or its designee for prior approval the name and  
3   qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
4   has a doctoral degree in psychology and at least five years of postgraduate experience in the  
5   diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
6   undergo and continue psychotherapy treatment, including any modifications to the frequency of  
7   psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

8           The psychotherapist shall consider any information provided by the Board or its designee  
9   and any other information the psychotherapist deems relevant and shall furnish a written  
10   evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
11   psychotherapist any information and documents that the psychotherapist may deem pertinent.

12          Respondent shall have the treating psychotherapist submit quarterly status reports to the  
13   Board or its designee. The Board or its designee may require Respondent to undergo psychiatric  
14   evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of  
15   probation, Respondent is found to be mentally unfit to resume the practice of medicine without  
16   restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the  
17   period of probation shall be extended until the Board determines that Respondent is mentally fit  
18   to resume the practice of medicine without restrictions.

19          Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

20          6.    NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7)  
21   days of the effective date of this Decision, Respondent shall provide to the Board the names,  
22   physical addresses, mailing addresses, and telephone numbers of any and all employers and  
23   supervisors. Respondent shall also provide specific, written consent for the Board, Respondent's  
24   worksite monitor, and Respondent's employers and supervisors to communicate regarding  
25   Respondent's work status, performance, and monitoring.

26          For purposes of this section, "supervisors" shall include the Chief of Staff and Health or  
27   Well Being Committee Chair, or equivalent, if applicable, when Respondent has medical staff  
28   privileges.

1           7.    BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
2 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.  
3 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair  
4 follicle testing, or similar drug screening approved by the Board or its designee. Respondent shall  
5 make daily contact with the Board or its designee to determine whether biological fluid testing is  
6 required. Respondent shall be tested on the date of the notification as directed by the Board or its  
7 designee. The Board may order Respondent to undergo a biological fluid test on any day, at any  
8 time, including weekends and holidays. Except when testing on a specific date as ordered by the  
9 Board or its designee, the scheduling of biological fluid testing shall be done on a random basis.  
10 The cost of biological fluid testing shall be borne by the Respondent.

11           For the duration of the probationary term, up to five (5) years, Respondent shall be subject  
12 to 36 to 104 random tests per year. Only if there has been no positive biological fluid tests in the  
13 previous five (5) consecutive years of probation, may testing be reduced to one (1) time per  
14 month. Nothing precludes the Board from increasing the number of random tests to the first-year  
15 level of frequency for any reason, which is 52 to 104 random tests per year.

16           Prior to practicing medicine, Respondent shall contract with a laboratory or service,  
17 approved in advance by the Board or its designee, that will conduct random, unannounced,  
18 observed, biological fluid testing and meets all the following standards:

- 19           (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry  
20 Association or have completed the training required to serve as a collector for the United  
21 States Department of Transportation.
- 22           (b) Its specimen collectors conform to the current United States Department of  
23 Transportation Specimen Collection Guidelines
- 24           (c) Its testing locations comply with the Urine Specimen Collection Guidelines published  
25 by the United States Department of Transportation without regard to the type of test  
26 administered.
- 27           (d) Its specimen collectors observe the collection of testing specimens.
- 28           (e) Its laboratories are certified and accredited by the United States Department of Health

1 and Human Services.

2 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day  
3 of receipt and all specimens collected shall be handled pursuant to chain of custody  
4 procedures. The laboratory shall process and analyze the specimens and provide legally  
5 defensible test results to the Board within seven (7) business days of receipt of the  
6 specimen. The Board will be notified of non-negative results within one (1) business day  
7 and will be notified of negative test results within seven (7) business days.

8 (g) Its testing locations possess all the materials, equipment, and technical expertise  
9 necessary in order to test Respondent on any day of the week.

10 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens  
11 for the detection of alcohol and illegal and controlled substances.

12 (i) It maintains testing sites located throughout California.

13 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line  
14 computer database that allows the Respondent to check in daily for testing.

15 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff  
16 access to drug test results and compliance reporting information that is available 24 hours a  
17 day.

18 (l) It employs or contracts with toxicologists that are licensed physicians and have  
19 knowledge of substance abuse disorders and the appropriate medical training to interpret  
20 and evaluate laboratory biological fluid test results, medical histories, and any other  
21 information relevant to biomedical information.

22 (m) It will not consider a toxicology screen to be negative if a positive result is obtained  
23 while practicing, even if the Respondent holds a valid prescription for the substance.

24 Prior to changing testing locations for any reason, including during vacation or other travel,  
25 alternative testing locations must be approved by the Board and meet the requirements above.

26 The contract shall require that the laboratory directly notify the Board or its designee of  
27 non-negative results within one (1) business day and negative test results within seven (7)  
28 business days of the results becoming available. Respondent shall maintain this laboratory or

1 service contract during the period of probation.

2 A certified copy of any laboratory test result may be received in evidence in any  
3 proceedings between the Board and Respondent.

4 If a biological fluid test result indicates Respondent has used, consumed, ingested, or  
5 administered to himself or herself a prohibited substance, the Board shall order Respondent to  
6 cease practice and instruct Respondent to leave any place of work where Respondent is practicing  
7 medicine or providing medical services. The Board shall immediately notify all of Respondent's  
8 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or  
9 provide medical services while the cease-practice order is in effect.

10 A biological fluid test will not be considered negative if a positive result is obtained while  
11 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited  
12 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

13 After the issuance of a cease-practice order, the Board shall determine whether the positive  
14 biological fluid test is in fact evidence of prohibited substance use by consulting with the  
15 specimen collector and the laboratory, communicating with the licensee, his or her treating  
16 physician(s), other health care provider, or group facilitator, as applicable.

17 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the  
18 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

19 For purposes of this condition, the term "prohibited substance" means an illegal drug, a  
20 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by  
21 Respondent and approved by the Board, alcohol, or any other substance Respondent has been  
22 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

23 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited  
24 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the  
25 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to  
26 any other terms or conditions the Board determines are necessary for public protection or to  
27 enhance Respondent's rehabilitation.

28 8. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of

1 the effective date of this Decision, Respondent shall submit to the Board or its designee, for its  
2 prior approval, the name of a substance abuse support group which he shall attend for the duration  
3 of probation. Respondent shall attend substance abuse support group meetings at least once per  
4 week, or as ordered by the Board or its designee. Respondent shall pay all substance abuse  
5 support group meeting costs.

6 The facilitator of the substance abuse support group meeting shall have a minimum of three  
7 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed  
8 or certified by the state or nationally certified organizations. The facilitator shall not have a  
9 current or former financial, personal, or business relationship with Respondent within the last five  
10 (5) years. Respondent's previous participation in a substance abuse group support meeting led by  
11 the same facilitator does not constitute a prohibited current or former financial, personal, or  
12 business relationship.

13 The facilitator shall provide a signed document to the Board or its designee showing  
14 Respondent's name, the group name, the date and location of the meeting, Respondent's  
15 attendance, and Respondent's level of participation and progress. The facilitator shall report any  
16 unexcused absence by Respondent from any substance abuse support group meeting to the Board,  
17 or its designee, within twenty-four (24) hours of the unexcused absence.

18 9. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty  
19 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or  
20 its designee for prior approval as a worksite monitor, the name and qualifications of one or more  
21 licensed physician and surgeon, other licensed health care professional if no physician and  
22 surgeon is available, or, as approved by the Board or its designee, a person in a position of  
23 authority who is capable of monitoring the Respondent at work.

24 The worksite monitor shall not have a current or former financial, personal, or familial  
25 relationship with Respondent, or any other relationship that could reasonably be expected to  
26 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its  
27 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite  
28 monitor, this requirement may be waived by the Board or its designee, however, under no



1 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

2 The worksite monitor shall have an active unrestricted license with no disciplinary action  
3 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms  
4 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth  
5 by the Board or its designee.

6 Respondent shall pay all worksite monitoring costs.

7 The worksite monitor shall have face-to-face contact with Respondent in the work  
8 environment on as frequent a basis as determined by the Board or its designee, but not less than  
9 once per week; interview other staff in the office regarding Respondent's behavior, if requested  
10 by the Board or its designee; and review Respondent's work attendance.

11 The worksite monitor shall verbally report any suspected substance abuse to the Board and  
12 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected  
13 substance abuse does not occur during the Board's normal business hours, the verbal report shall  
14 be made to the Board or its designee within one (1) hour of the next business day. A written  
15 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and  
16 any other information deemed important by the worksite monitor shall be submitted to the Board  
17 or its designee within 48 hours of the occurrence.

18 The worksite monitor shall complete and submit a written report monthly or as directed by  
19 the Board or its designee which shall include the following: (1) Respondent's name and  
20 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)  
21 the worksite monitor's license number, if applicable; (4) the location or location(s) of the  
22 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the  
23 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;  
24 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can  
25 lead to suspected substance abuse by Respondent. Respondent shall complete any required  
26 consent forms and execute agreements with the approved worksite monitor and the Board, or its  
27 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

28 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)

1 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior  
2 approval, the name and qualifications of a replacement monitor who will be assuming that  
3 responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a  
4 replacement monitor within sixty (60) calendar days of the resignation or unavailability of the  
5 monitor, Respondent shall receive a notification from the Board or its designee to cease the  
6 practice of medicine within three (3) calendar days after being so notified. Respondent shall  
7 cease the practice of medicine until a replacement monitor is approved and assumes monitoring  
8 responsibility.

9 10. VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING  
10 LICENSEES . Failure to fully comply with any term or condition of probation is a violation of  
11 probation.

12 A. If Respondent commits a major violation of probation as defined by section 1361.52,  
13 subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or  
14 more of the following actions:

15 (1) Issue an immediate cease-practice order and order Respondent to undergo a clinical  
16 diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of  
17 Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice  
18 order issued by the Board or its designee shall state that Respondent must test negative for at least  
19 a month of continuous biological fluid testing before being allowed to resume practice. For  
20 purposes of the determining the length of time a Respondent must test negative while undergoing  
21 continuous biological fluid testing following issuance of a cease-practice order, a month is  
22 defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until  
23 notified in writing by the Board or its designee that he or she may do so.

24 (2) Increase the frequency of biological fluid testing.

25 (3) Refer Respondent for further disciplinary action, such as suspension, revocation, or  
26 other action as determined by the Board or its designee.

27 B. If Respondent commits a minor violation of probation as defined by section 1361.52,  
28 subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or

1 more of the following actions:

2 (1) Issue a cease-practice order;

3 (2) Order practice limitations;

4 (3) Order or increase supervision of Respondent;

5 (4) Order increased documentation;

6 (5) Issue a citation and fine, or a warning letter;

7 (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in  
8 accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of  
9 Regulations, at Respondent's expense;

10 (7) Take any other action as determined by the Board or its designee.

11 C. Nothing in this Decision shall be considered a limitation on the Board's authority to  
12 revoke Respondent's probation if he or she has violated any term or condition of probation. If  
13 Respondent violates probation in any respect, the Board, after giving Respondent notice and the  
14 opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
15 stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed  
16 against Respondent during probation, the Board shall have continuing jurisdiction until the matter  
17 is final, and the period of probation shall be extended until the matter is final.

18 11. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
19 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
20 Chief Executive Officer at every hospital where privileges or membership are extended to  
21 Respondent, at any other facility where Respondent engages in the practice of medicine,  
22 including all physician and locum tenens registries or other similar agencies, and to the Chief  
23 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
24 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
25 calendar days.

26 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

27 12. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
28 prohibited from supervising physician assistants and advanced practice nurses.

1       13. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
2 governing the practice of medicine in California and remain in full compliance with any court  
3 ordered criminal probation, payments, and other orders.

4       14. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
5 under penalty of perjury on forms provided by the Board, stating whether there has been  
6 compliance with all the conditions of probation.

7       Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
8 of the preceding quarter.

9       15. GENERAL PROBATION REQUIREMENTS.

10       Compliance with Probation Unit

11       Respondent shall comply with the Board's probation unit.

12       Address Changes

13       Respondent shall, at all times, keep the Board informed of Respondent's business and  
14 residence addresses, email address (if available), and telephone number. Changes of such  
15 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
16 circumstances shall a post office box serve as an address of record, except as allowed by Business  
17 and Professions Code section 2021(b).

18       Place of Practice

19       Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
20 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
21 facility.

22       License Renewal

23       Respondent shall maintain a current and renewed California physician's and surgeon's  
24 license.

25       Travel or Residence Outside California

26       Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
27 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
28 (30) calendar days.

1 In the event Respondent should leave the State of California to reside or to practice  
2 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
3 departure and return.

4 16. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
5 available in person upon request for interviews either at Respondent's place of business or at the  
6 probation unit office, with or without prior notice throughout the term of probation.

7 17. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
8 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
9 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
10 defined as any period of time Respondent is not practicing medicine as defined in Business and  
11 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
12 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
13 Respondent resides in California and is considered to be in non-practice, Respondent shall  
14 comply with all terms and conditions of probation. All time spent in an intensive training  
15 program which has been approved by the Board or its designee shall not be considered non-  
16 practice and does not relieve Respondent from complying with all terms and conditions of  
17 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
18 on probation with the medical licensing authority of that state or jurisdiction shall not be  
19 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
20 period of non-practice.

21 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
22 months, Respondent shall successfully complete the Federation of State Medical Board's Special  
23 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
24 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
25 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

26 Respondent's period of non-practice while on probation shall not exceed two (2) years.

27 Periods of non-practice will not apply to the reduction of the probationary term.

28 Periods of non-practice for a Respondent, living outside of California, will relieve

1 Respondent of the responsibility to comply with the probationary terms and conditions with the  
2 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
3 and General Probation Requirements; Quarterly Declarations; Abstain from Use of Alcohol  
4 and/or Controlled Substances; and Biological Fluid Testing.

5 18. COMPLETION OF PROBATION. Respondent shall comply with all financial  
6 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
7 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
8 be fully restored.

9 19. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
10 of probation is a violation of probation. If Respondent violates probation in any respect, the  
11 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
12 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
13 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
14 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
15 the matter is final.

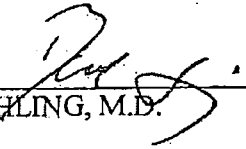
16 20. LICENSE SURRENDER. Following the effective date of this Decision, if  
17 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
18 the terms and conditions of probation, Respondent may request to surrender his or her license.  
19 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
20 determining whether or not to grant the request, or to take any other action deemed appropriate  
21 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
22 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
23 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
24 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
25 application shall be treated as a petition for reinstatement of a revoked certificate.

26 21. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
27 with probation monitoring each and every year of probation, as designated by the Board, which  
28 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of

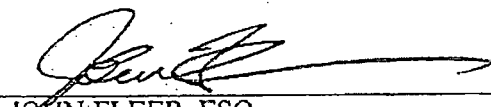
1 California and delivered to the Board or its designee no later than January 31 of each calendar  
2 year.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
5 discussed it with my attorney, John Fleer, Esq. I understand the stipulation and the effect it will  
6 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
7 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
8 Decision and Order of the Medical Board of California.

9  
10 DATED: 2/24/2017   
11 DETLEF K. EHLLING, M.D.  
Respondent

12 I have read and fully discussed with Respondent Detlef K. Ehling, M.D. the terms and  
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
14 I approve its form and content.

15  
16 DATED: 2/24/17   
17 JOHN FLEER, ESQ.  
Attorney for Respondent

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Dated: Feb. 24, 2017

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JANE ZACK SIMON  
Supervising Deputy Attorney General



KEITH C. SHAW  
Deputy Attorney General  
*Attorneys for Complainant*



**Exhibit A**

**Accusation No. 800-2015-016011**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 KERRY WEISEL  
Deputy Attorney General  
4 State Bar No. 127522  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5554  
6 Facsimile: (415) 703-5480  
E-mail: Kerry.Weisel@doj.ca.gov  
7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO *July 14 20 16*  
BY *[Signature]* ANALYST

8  
9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2015-016011

12 **Detlef K. Ehling, M.D.**  
13 **2485 High School Ave Ste 208**  
**Concord CA 94520**

**ACCUSATION**

14 **Physician's and Surgeon's Certificate**  
15 **No. A66608,**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On October 2, 1998, the Medical Board issued Physician's and Surgeon's Certificate  
24 Number A66608 to Detlef K. Ehling, M.D. (Respondent). The Physician's and Surgeon's  
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on August 31, 2016, unless renewed.

27 ///

28 ///

**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2234 of the Code states, in pertinent part: "The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of [Chapter 5, the Medical Practice Act]

"...."

5. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely . . . constitutes unprofessional conduct. ....

"...."

6. Section 822 of the Code states:

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

"(a) Revoking the licentiate's certificate or license.

"(b) Suspending the licentiate's right to practice.

"(c) Placing the licentiate on probation.

"(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

"The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its

1 action and until it is satisfied that with due regard for the public health and safety the person's  
2 right to practice his or her profession may be safely reinstated."

3 **FACTS**

4 7. On July 18, 2015, while driving near his home, Respondent hit a parked car.  
5 Respondent says that he hit the car when he swerved to avoid an oncoming car. He was driving at  
6 a low enough speed that the airbags did not deploy. He was transported to San Francisco General  
7 Hospital ("SFGH") by ambulance.

8 8. When Respondent arrived at the hospital shortly after noon, his blood alcohol level  
9 was measured at 170 ml/dL or 0.17%. Respondent had no serious injuries but remained  
10 hospitalized at San Francisco General Hospital until July 27, 2015 while he underwent medically  
11 assisted alcohol withdrawal.

12 9. Respondent reported to his treating physicians that his drinking had increased in the  
13 past year due to various stressors. He said he had started drinking during the day including in the  
14 morning.

15 10. On July 27, 2015, Respondent was discharged from SFGH to California Pacific  
16 Medical Center ("CPMC") for further management of alcohol withdrawal. His diagnoses on  
17 discharge from SFGH included alcohol withdrawal and alcohol dependency.

18 11. Respondent remained at CPMC until July 30, 2015. His discharge summary from  
19 CPMC noted that he had been hospitalized for alcohol withdrawal, essential tremors, and  
20 generalized weakness.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Excessive Use of Alcohol)**

23 12. Respondent Detlef K. Ehling, M.D. is subject to disciplinary action for unprofessional  
24 conduct under sections 2234 and/or 2239 of the Code in that he used alcoholic beverages, as  
25 described above, to the extent that it was dangerous to himself and others when he drove a car  
26 with a blood alcohol level of 0.17% and to the extent that such use impaired his ability to practice  
27 medicine safely.

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